

REMARKS

Claims 69-88 are currently pending in this application. Claims 1-68 have been canceled without prejudice. Claims 69-88 have been added. No new matter has been added since the amendments have merely rewritten dependent claims as independent claims.

The following remarks put the pending claims in condition for allowance. Claims 69-72 embody the claim language of previous claims 22-25 which have been indicated as allowable. Therefore, the following remarks pertain only to claims 73-88. Applicants respectfully request reconsideration and the timely allowance of the pending claims.

35 U.S.C. § 112, Second Paragraph, Rejection

Claims 2, 32-33, and 52-56 stood rejected under 35 U.S.C. 112, second paragraph for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn.

35 USC § 102 Rejections

35 USC § 102(b) Rejection by Bogojavlensky

Claims 1, 3-6, 26-27, and 31-32 stood rejected under 35 U.S.C. 102(b) for allegedly being anticipated by Bogojavlensky, WO 96/39989, (hereinafter “Bogojavlensky”).

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

The Office Action states that Bogojavlensky teaches a device having a housing having a top surface, sides and a flange that is adapted to adhere to the body to form a

seal with the body and thus anticipates previous claims 1, 3-6, 26-27, and 31-32.

Applicants respectfully disagree.

Newly added claims 69-88 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. The device of the present invention is used to lift, position, move and otherwise manipulate the internal organ. In contrast, Bogojavlensky is directed to a device for alleviating female urinary incontinence. Bogojavlensky does not teach or suggest any devices for internal organ manipulation. Further, the device of Bogojavlensky does not have a portion of the housing that is adapted for adherence to any surface of an internal organ nor does Bogojavlensky teach or suggest methods of executing such a modification. The Office Action states if the “prior art structure is capable of performing the intended use, then it meets the claim.” However, the Office has offered no evidence or argument in support of the device of Bogojavlensky as being able to lift, position, move and otherwise manipulate an internal organ, as is claimed. The device of Bogojavlensky is used to “contact the user’s body at the planar area of the user’s body surrounding the meatus urinarius or urethra orifice...the user’s meatus is closed by a gentle compression of the area surrounding the meatus” (page 4, lines 14-15, 21-22). This function is completely different from the function of the present invention and nothing in the prior art suggests that this device could be used to perform the function of the present invention. For example, the Office has provided no evidence or reasoning supporting the contention that that the device of Argenta is capable lifting an internal organ. Accordingly, the Applicants respectfully suggest that, at least for these reasons, newly added claims 69-88 are not anticipated by Bogjavlenksy.

35 USC § 102(b) Rejection by Argenta

Claims 1, 3-4, 7, 10, 13, 26-27, and 30-32 stood rejected under 35 U.S.C. 102(b) for allegedly being anticipated by Argenta et al, U.S. Patent No. 5,636,643, (hereinafter “Argenta”).

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

The Office Action states that Argenta discloses a device having a housing having a top surface and sides that is adapted to adhere to the body to form a seal with the body and as such anticipates the claimed invention. Applicants respectfully disagree.

Newly added claims 69-88 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Argenta is directed to a device and method for treating wounds and tissue damage. Argenta does not teach or suggest any devices for internal organ manipulation. Further, the device of Argenta does not have a portion of the housing that is adapted for adherence to any surface of an internal organ nor does Argenta teach or suggest methods of making such an adaptation. Additionally, the Office has provided no evidence or reasoning supporting the contention that the device of Argenta is capable of performing the functions of the invention, namely lifting, positioning, moving and otherwise manipulating an internal organ. Accordingly, the Applicants respectfully suggest that, at least for these reasons, newly added claims 69-88 are not anticipated by Argenta.

35 USC § 102(e) Rejection by Spence et al.

Claims 1-19, 26-29, 31-33, 36-52, and 57-68 stood rejected under 35 U.S.C. 102(e) for allegedly being anticipated by Spence et al., U.S. Application No. 2001/0041827, (hereinafter “Spence”).

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

Spence teaches a suction cup having a plurality of chambers and means for preventing tissue from interfering with suction. However, Spence fails to teach or suggest certain limitations of the currently pending claims.

Claim 73 recites a device comprising:

a housing...;
wherein the top surface of the housing has a flat, elongate shape and wherein the housing further comprises a bottom surface and at least one aperture in the bottom surface of the housing....

There is simply no teaching or suggestion in Spence of a device having a housing of these characteristics. Spence is generally directed to a device and method stabilizing a heart during surgery using a suction cup. None of the embodiments in Spence include a bottom surface and at least one aperture in the bottom surface. The Office is reminded that the teaching shown in Figures 13 and 14 is to a gross support means and not a suction cup (see paragraph [123]). This support means is placed under the heart and certainly does not include a portion adapted for adherence to any surface of an internal organ, as is claimed.

Claim 75 requires a gel or flexible film being released from the housing. Spence fails to teach or suggest release of a gel or flexible film upon adherence of the suction cup to an organ. Claim 76 requires a housing having at least two ends and wherein the device further comprises a spreading mechanism for moving the ends of the housing away from each other. Spence teaches a suction cup having two ends (shown in Fig. 19A and Fig. 19B and discussed in paragraph [0111]) but fails to teach or suggest a spreading mechanism for separating the ends. As to claim 82, it is further distinguished since Spence fails to teach an attachment mechanism having a ribbed portion. The only teaching in Spence, is of a suspension spring used to attach the suction cups to a flexible arm (see Fig. 16 and paragraph [0119]). Claim 83 further requires a connection mechanism comprising a connector mounted on the housing that is rotatable with respect to the housing. There is simply no teaching or suggestion of such a connector in Spence. Again the only teaching in Spence is of a suspension spring. Spence fails to teach or suggest any degree of rotation between flexible arm 318 and suction cup 314 but teaches only the multiplanar movement allowed by the spring (see paragraph [0119]).

Accordingly, the Applicants respectfully suggest that, at least for these reasons, newly added claims 69-88 are not anticipated by Spence.

35 USC § 102(a) Rejection by Peng et al.

Claims 11, 20, and 35, 38-41, 51, 53-56, and 67-68 stood rejected under 35 U.S.C. 102(a) for allegedly being anticipated by Peng et al, WO 0117437, (hereinafter “Peng”).

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

Peng teaches a suction cup used to retract a heart to a suitable position for performing surgery thereon. However, Peng fails to teach all the limitations of the claims. For example, claim 73 requires a housing having a bottom surface with at least one aperture in the bottom surface. Peng teaches several different embodiments of suction cups, none of them possessing a bottom surface with an aperture. Claim 75 requires a gel or flexible film being released from the housing. Peng fails to teach or suggest a gel or flexible film in any manner located within the suction cup. Claim 76 requires a housing having at least two ends and wherein the device further comprises a spreading mechanism for moving the ends of the housing away from each other. The suction cups of Peng have no ends and have no mechanism for separating the ends.

35 USC § 102(b) Rejection by Fox et al.

Claims 1-7, 9-19, 26, 32-33, 36, 42-49, and 52 stood rejected under 35 U.S.C. 102(b) for allegedly being anticipated by Fox et al, EP 0919193, (hereinafter “Fox”).

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

Newly added claims 69-88 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ whereby the device is used to lift,

position, move and otherwise manipulate the internal organ. In contrast, Fox is directed to a device for stabilizing moving tissue having a tube with a lumen connect to a foot placed adjacent to the moving tissue. For example, the device of Fox can be used to stabilized a beating heart during surgery. However, the Office has provided no evidence or reasoning supporting the contention that that the device of Argenta is capable of performing the functions of the invention, namely lifting, positioning, moving and otherwise manipulating an internal organ. Accordingly, the Applicants respectfully suggest that newly added claims 69-88 are not anticipated by Fox.

35 U.S.C. § 103(a) Rejections

35 USC § 103(a) Rejection over Bogojavlensky

Claims 28-29 and 42-47 stood rejected under 35 U.S.C. 103(a) for allegedly being obvious over Bogojavlensky.

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

The Office Action states that Bogojavlensky does not specifically disclose the claimed angles or ranges of height, width, thickness, etc. of the claimed device, those ranges would have been obvious to one of ordinary skill in the art.

Newly added claims 69-88 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Bogojavlensky is directed to a device for alleviating female urinary incontinence. Bogojavlensky to not teach or suggest any devices for internal organ manipulation. (See the discussion above traversing the 102 rejection based on Bogojavlensky.) As such, Bogojavlensky does not make the invention of claims 69-88 obvious. Because the reference does not teach or suggest every element of the claimed invention, the Applicants respectfully suggest that Bogojavlensky fails to render claims 69-88 obvious.

35 USC § 103(a) Rejection over Argenta

Claims 8-9, 28-29, and 42-47 stood rejected under 35 U.S.C. 103(a) for allegedly being obvious over Argenta.

These claims have all been canceled. Thus, it is respectfully requested that the rejection be withdrawn. The following discussion pertains to the currently pending claims.

The Office Action contends that Argenta does not specifically disclose the claimed angles or ranges of height, width, thickness, etc. of the claimed device, but that those ranges would have been obvious to one of ordinary skill in the art. The Office further contends that it would have been obvious to modify the shape of the suction cup of Argenta to meet the claimed invention. Applicants respectfully disagree.

Newly added claims 69-88 are directed to a device for internal organ manipulation comprising a housing having a top portion with at least one portion of the housing being adapted to adhere to an internal organ. In contrast, Argenta is directed to a device and method for treating wounds and tissue damage. Argenta does not teach or suggest any devices for internal organ manipulation. (See the discussion above traversing the 102 rejection based on Argenta.) The Office's contention that one of ordinary skill in the art would optimize working ranges or modify the shape does not cure these deficiencies as Argenta does not teach or suggest in any fashion the device of claims 69-88. Accordingly, the Applicants respectfully suggest that Argenta fails to render obvious claims 69-88.

CONCLUSION

Applicants believe this response to be a full and complete response to the Office Action. In view of the foregoing, Applicants respectfully request reconsideration and allowance of new claims 69-88. As the application is believed to be in condition for allowance, Applicants respectfully request a Notice of Allowability. The Examiner is invited to contact the undersigned representative should any further issues arise

Respectfully submitted,

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